

Assembly Bill No. 361

CHAPTER 436

An act to add Section 4610.3 to the Labor Code, relating to workers' compensation.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 361, Bonnie Lowenthal. Workers' compensation: treatment authorization.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of his or her employment. Existing law requires every employer to establish a medical treatment utilization review process, in compliance with specified requirements, either directly or through its insurer or an entity with which the employer or insurer contracts for these services.

Existing law authorizes an employer or insurer to establish or modify a medical provider network for the provision of medical treatment to injured employees, and to submit a medical provider network plan to the administrative director for approval. Existing law permits employers to enter into contracts for the provision of medical services to injured employees with a health care organization that has been certified by the administrative director for this purpose.

This bill provides that, regardless of whether an employer has established a medical provider network or entered into a contract with a health care organization, an employer that authorizes medical treatment shall not rescind or modify the authorization for the portion of the medical treatment that has been provided after that treatment has been provided for any reason, including, but not limited to, the employer's subsequent determination that the physician who treated the employee was not eligible to treat that injured employee. This bill provides that its provisions shall not be construed to expand or alter the benefits available under, or the terms and conditions of, any contract, including, but not limited to, existing medical provider network and health care organization contracts. The bill would also provide that its provisions shall not be construed to impact the ability of the employer to transfer treatment of an injured employee into a medical provider network or health care organization.

The bill would further provide that its provisions shall not be construed to establish that a provider of authorized medical treatment is the primary care physician for specified purposes.

The people of the State of California do enact as follows:

SECTION 1. Section 4610.3 is added to the Labor Code, to read:

4610.3. (a) Regardless of whether an employer has established a medical provider network pursuant to Section 4616 or entered into a contract with a health care organization pursuant to Section 4600.5, an employer that authorizes medical treatment shall not rescind or modify that authorization after the medical treatment has been provided based on that authorization for any reason, including, but not limited to, the employer's subsequent determination that the physician who treated the employee was not eligible to treat that injured employee. If the authorized medical treatment consists of a series of treatments or services, the employer may rescind or modify the authorization only for the treatments or services that have not already been provided.

(b) This section shall not be construed to expand or alter the benefits available under, or the terms and conditions of, any contract, including, but not limited to, existing medical provider network and health care organization contracts.

(c) This section shall not be construed to impact the ability of the employer to transfer treatment of an injured employee into a medical provider network or health care organization. This subdivision is declaratory of existing law.

(d) This section shall not be construed to establish that a provider of authorized medical treatment is the physician primarily responsible for managing the injured employee's care for purposes of rendering opinions on all medical issues necessary to determine eligibility for compensation.